

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.77 Willfully and maliciously setting fire.

Sec. 77. (1) A person who uses, arranges, places, devises, or distributes an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building or property described in section 72, 73, 74, or 75 with intent to willfully and maliciously set fire to or burn the building or property or who aids, counsels, induces, persuades, or procures another to do so is guilty of a crime as follows:

(a) If the property intended to be burned is personal or real property, or both, with a combined value less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property intended to be burned is personal or real property, or both, with a combined value of \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property intended to be burned is personal or real property, or both, with a combined value of \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(i) The property is personal or real property, or both, with a combined value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for committing or attempting to commit an offense for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The combined value of property intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property intended to be burned.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) The total value of property intended to be burned.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.77;—Am. 1998, Act 312, Eff. Jan. 1, 1999.